

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN**

In the Matter of:

MAPLE LEAF CHEESE COOPERATIVE,

Debtor.

In Bankruptcy No.

20-13006-cjf

Chapter 11

MAPLE LEAF CHEESE COOPERATIVE,

Plaintiffs,

Adversary Proceeding No. 21-00039

v.

MAPLE LEAF CHEESEMAKERS, INC.,

Defendant.

**DEFENDANT’S SUPPLEMENT TO ITS MOTION TO COMPEL DISCOVERY
OR ALTERNATIVELY, ISSUE SANCTIONS
PURSUANT TO FED. R. CIV. PRO. 37(a), (d)**

The Defendant, Maple Leaf Cheesemakers, Inc. (“MLC”) by their counsel, Jane F. (Ginger) Zimmerman, Scott G. Salemi and Kristin K. Beilke of Murphy Desmond S.C., pursuant to Fed. R. Bankr. P. 7037 and Fed. R. Civ. P. 37(a), and (d), hereby provides this supplement to its Motion to Compel Discovery or Alternatively Issue Sanctions (“Motion”), and in support thereof states as follows:

1. On Monday, June 27, 2022, MLC filed its Motion regarding Plaintiff Maple Leaf Cheese Cooperative’s (“Coop”) conduct during discovery.
2. At almost 4:00 p.m. that day, the Coop sent over additional documents bates stamped COOP0019123-COOP0019756, an additional 633 documents. The documents contained in this batch purported to be documents that were from the Coop’s previous counsel, Michael Best, that Coop’s counsel first became aware of a “couple weeks” before June 27, 2022.

3. On Wednesday, June 29, 2022 at almost 5:00 p.m., the Coop sent additional documents bates stamped COOP19757-COOP0020031, an additional 274 documents.

4. COOP0019123-COOP0020031 (“New Production”), an additional 907 documents, contained emails from MLC to the Coop, or between counsel of the parties. However, it also contained documents that are copies of checks from the Whey Account, an account from which the Coop specifically alleged malfeasance in the Complaint.

5. The New Production, including Whey Account documents are only now being provided after MLC specifically asked for them in their written discovery requests issued on April 7, 2022. (Doc. 27, Ex. A, Req. for Prod. of Docs. No. 3.) MLC’s counsel again addressed the issue of missing Whey Account documents in an email to Coop’s counsel on June 2, 2022. A copy of this correspondence is attached hereto as **Exhibit A**. When no additional documents were produced, the issue was further requested in MLC’s second deficiency letter dated June 8, 2022 (Doc. 27, Ex. D, p. 4.)

6. Not only is the New Production, which the Coop had every opportunity of being able to provide when requested, voluminous, but it contains important information, such as who signed the checks, which could not have been obtained from bank statements, ledgers or other documentation related to the Whey Account.

7. This is a continuing, intentional lack of disclosure, when the parties are just four weeks away from trial and need to prepare experts and other witnesses to defend the action.

WHEREFORE, Defendant respectfully supplements its Motion and renews its request that the Court grant the relief as sought in the Motion, or any other relief this Court deems just and proper.

Dated 1st day of July, 2022.

MURPHY DESMOND S.C.

Attorneys for the Defendant, Maple Leaf
Cheesemakers, Inc.

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